WA 6906
9-3-85
17a

September 3, 1985

PACIFIC WOOD TREATING CORPORATION

AN AFFILIATE OF NIEDERMEYER-MARTIN CO.

Mr. Charles E. Findley, Director
Hazardous Waste Division
U.S. ENVIRONMENTAL PROTECTION AGENCY
Region 10
1200 Sixth Avenue
Seattle, WA 98101

USEPA RCRA
3057966

RECEIVED
SEP 09
HAZARDOUS MATERIALS DIV.

RE: Part B Application for Closure of
Ridgefield Brick and Tile Site

In response to your letter dated April 9, 1985
EPA ID. No. WAD 009036906

Dear Mr. Findley:

We were astounded and dismayed to receive your letter asking us to submit a Part "B" Application for a site we had closed under the supervision and approval of the WDOE and the Region X office of the EPA and are presently administering under a 30 year Post Closure Program also approved by the WDOE and the EPA.

This closure/post closure of the RBT site was comoleted in good faith by Pacific Wood Treating. We were ordered to do so by the Washington Department of Ecology Notice of Penalty Order No. DE83-284 (dated June 20, 1983), and WDOE Order No. DE83-468 (dated October 26, 1983).

This WDOE order was the result of Pacific Wood Treating landfilling boiler ash at the RBT site. This fact was clearly delineated in PWT's 1980 Part A Application. At that time, we advised everyone concerned, including the WDOE and the EPA, that we were disposing of the boiler ash at the RBT site. We were not advised that a separate Part A was required of the owner of the RBT site. The WDOE subsequently issued their Notice of Penalty Order against PWT when it should have been against the owner of the property.

We were neither the owners or operators of the RBT site. We voluntarily adopted a policy of conscientious cooperation with the EPA/WDOE, hired consultants and, in the end, purchased the property from the former operator to guaranty the integrity of the enclosure.

It cost PWT in excess of $150,000 to close the RBT site up to the beginning of the 30 year post closure period. We felt, as did the WDOE/EPA, it was a job well done and complete and turned our attention to the environmental needs of our Ridgefield treating plant.

At this point, we cannot help but feel that we have been put into a "double jeopardy" position by your request. We closed the RBT site under the orders and supervision of your legal representative, the Washington Department of Ecology. We attended meetings with your representative along with WDOE personnel where we were told, along with our con-

sultants, how you wished the site closed. We cooperated completely; now we are told we must do more. Who are we to believe? Whose regulatory order do we follow in the future? Are we to question the authority of the WDOE?

We have been advised that the reason Part B was called was due to "technicalities" that bring this closed site under the new laws. We believe that "practically" we should be excluded, and "technically" we must be excluded.

We ask you to carefully consider our points because there is a possibility for confusion. For example, the Part B is not being requested for our treating plant. PWT did not landfill K001 liquid waste; PWT did not operate an unlicensed landfill; PWT did not fail to report our activities to the WDOE or EPA.

It is our sincere belief that anyone who takes the time to review these files objectively must inevitably conclude that resurrecting the RBT site is illegal, unnecessary and undesirable from every viewpoint including the present owners (PWT), the former owners and operators (Muffett), the regulators (both EPA and WDOE), the public including the immediately adjacent neighbor (1), the distant neighbors (10 within a radius of one mile), and the future generations regardless of their proximity.

It is a determinable fact that the RBT site is not now, never was, and never will be a health hazard. If it were not for the regulations, the site could be used as a children's play park which it currently resembles more than a hazardous waste disposal site. For persoective, the official size of the "hazardous area" is 175 ft. by 169 ft., a total of 29,575 sq. ft., or approximately .7 of an acre (less than one acre).

Prior to PWT's involvement, the site was a 10 acre hole in the ground filled with six to ten feet of water and a threat to everyone. Because of the nature of the soil -- an open clay pit -- the water was constant the year around except for evaporation. We understand the site has been an unofficial dumping ground for the area for approximately 20 years. At the request of the owner, we began dumping ash into this water-filled hole in 1978; five years later, the water was still supporting fish, tadpoles, frogs, plant and wildlife. (See EPA and WDOE reports).

At no time did we dispose of liquid waste. At no time did we dispose of sludge or residue from the treating process. We hauled ash from our waste wood boiler system which, incidentally, was designed with full approval of the WDOE and knowledge of the EPA for the incineration of our sludge.

Our incineration plant and waste water treatment system included with the design of our waste wood boiler plant was not only design approved, but after it was operative, it was the subject of an EPA study: "EMISSIONS AND RESIDUE VALUES FROM WASTE DISPOSAL DURING WOOD PRESERVING" (EPA contract 68-03-2567 - Task 4028, and 68-03-3028 - Task 10).

The study was conducted by Acurex Corp. of Mountain View, California for

the EPA, Food and Wood Products Branch, Cincinnatti, Ohio. Representatives of Acurex Corp., under contract to the EPA, stated that the ash was only "nominally" toxic, was within defined health standards, and could be landfilled at the RBT site or any other landfill.

Your records will confirm that had we not been required to stop incinerating, the ash would have been delisted. Knowing full well the ash was not hazardous, we proceeded with full notice to the WDOE and EPA to use the ash from our WDOE/EPA design approved waste wood boiler system to fill a dangerous and unsightly water-filled hole at the site of the former Ridgefield Brick and Tile Co. (RBT).

RBT manufactured brick from the clay extracted from the ground at the site. When technology made manufactured brick unprofitable, the owners, in 1964, ceased manufacturing, subsequently wholesaled from the same location and proceeded to fill the hole in the ground which was an "attractive and dangerous nuisance". Attractive not in an aesthetic sense, but in the legal sense that a hole full of water, frogs and tadpoles would attract young children.

God has not created a more desirable place for the ash from our plant than in an impervious, abandoned clay pit. Even if it had been toxic, the ash would be safe in such a place. Even if it had never been moved, the ash would be safe in such a place.

Finally, after the assurances of the WDOE and the EPA, and approval of our closure/post closure plan by both, that we could put an end to the harrassment regarding this site, we proceeded to buy the property, drain the water, seal the ground, move the ash, install a clay cover, install testing devices, level the ground, plant approved cover, and provide required testing at a cost in excess of $150,000.

Now, after closing the site exactly in accordance with the closure and post closure plans prepared by Sweet, Edwards & Associates (hydrologists) and Patrick H. Wicks, Consultants, and under the ongoing monitoring of the WDOE and EPA, we are asked to go to the additional expense and effort of a Part B application.

We cannot do this. We closed in good faith.

We believe there are numerous reasons for you to reconsider your request and to consider this site closed in accordance with the previously approved closure/post closure plans. We ask you to do so.

Our refusal to proceed with the Part B is not to be interpreted as a refusal to continue with the post closure program in place. We have every intention of carrying out the commitments we have made, but we deeply resent the calling of a Part B on the RBT site which is clearly unnecessary, illegal, a duplication of what has already been done, and a further commitment of time, effort and money which PWT, the Federal Government and the state of Washington can ill afford.

If the RBT site is not on the bottom of the priority list for the EPA and the WDOE, then the entire enforcement program is ludicrous and

doomed to failure. Furthermore, we believe we can establish that calling a Part B on the RBT site is arbitrary, capricious, illegal and nothing more than harrassment.

We are also confident that there are a number of people within the regulatory agencies who will agree but do not have the authority to do anything about it. We believe someone does have that authority; the purpose of this letter is to ask that you reconsider your position and withdraw your request for a Part B on the RBT site.

Very truly yours,

PACIFIC WOOD TREATING CORP.

Mark T. Moothart
General Manager

Jn

cc: Eric Egbers
WDOE - S.W. Regional Office
7272 Cleanwater Lane, LU11
Olympia, WA 98504

J. Whitworth
WDOE - S.W. Regional Office
7272 Cleanwater Lane, LU11
Olympia, WA 98504

Joanne Chance
WDOE - S.W. Regional Office
7272 Cleanwater Lane, LU11
Olympia, WA 98504